UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ERIC W. BROWN,
RAMAMOHAN CHENNAMSETTY,
and ABRAHAM L. WOLDEMICHAEL

Appeal 2012-010274
Application 12/242,216
Technology Center 2400

Before ELENI MANTIS MERCADER, BRUCE R. WINSOR, and JOHN F. HORVATH, *Administrative Patent Judges*.

HORVATH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134(a) of the Examiner's rejection of claims 13–17.[1] We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

SUMMARY OF THE INVENTION

The invention is directed to credential authentication for different target resources across disparate security domains. Spec. ¶ 1.

Claim 13, reproduced below, is illustrative of the claimed subject matter:

> 13. A computer program product comprising a computer usable storage medium storing computer usable program code for discovery profile based unified credential processing for disparate security domains, the computer program product comprising:
>
> computer usable program code for discovering manageable resources across disparate security domains in a computer communications network;
>
> computer usable program code for selecting a discovered one of the manageable resources in a particular one of the disparate security domains for a systems management task;
>
> computer usable program code for transforming an authentication credential not specific to the particular one of the disparate security domains to a mapped authentication

[1] Appellants sought review of the Examiner's rejections of claims 1–17. App. Br. 5–6. However, the Examiner withdrew the rejection of claims 1–17 under 35 U.S.C. § 102(b). Ans. 4. Consequently, the only pending rejection is of claims 13–17 under 35 U.S.C. § 101. *Id.* at 5. We, therefore, treat Appellants' request as a request to review the Examiner's rejection of claims 13–17 under 35 U.S.C. § 101.

> credential specific to the particular one of the disparate security domains; and,
>
> computer usable program code for authenticating into the particular one of the disparate security domains with the mapped authentication credential in order to perform the systems management task on the selected discovered one of the manageable resources.

REJECTIONS

Claims 13–17 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Ans. 4–5; *see* n.1, *supra*.

ANALYSIS

Claims 13–17 recite computer program products comprising computer usable storage media storing computer usable program code. Claims App'x.

The Examiner finds the broadest reasonable interpretation of computer usable storage media, consistent with Appellants' Specification, includes transitory signals. Ans. 5–6 (citing Spec. ¶ 35). The Examiner therefore finds claims 13–17 are not directed to patentable-eligible subject matter under 35 U.S.C. § 101 because transitory signals are not a statutory class of invention. Ans. 5; *see*, *In re Nuijten*, 500 F.3d 1346 (Fed. Cir. 2007).

Appellants argue claims 13–17 are directed to patent-eligible subject matter because they recite a computer readable *storage* medium, rather than a computer readable medium. App. Br. 6–7. Appellants argue a transitory signal is not a storage medium because storage "implies some type of temporal permanence." *Id.* at 7 (internal citations omitted). Finally,

Appellants argue the Board has recognized the distinction between computer readable *storage* media and computer readable media, finding the former directed to patent-eligible subject matter in numerous decisions. *Id.* at 6–10 (citing *Ex parte Bash*, 2010 WL 5199590 (BPAI)(nonprecedential); *Ex parte Dureau*, 2010 WL 3389299 (BPAI)(nonprecedential); *Ex parte Mehta*, 2009 WL 4004962 (BPAI)(nonprecedential))(internal citations omitted); Reply Br. 7–8 (citing *Ex parte Hu*, 2012 WL 439708 (BPAI)(nonprecedential)). We are not persuaded by Appellants argument, and adopt the Examiner's findings and conclusions as our own.

Appellants' reliance on the *Hu*, *Bash*, *Dureau*, and *Mehta* decisions for the proposition that claims to a computer readable storage medium are patentable, whereas claims to a computer readable medium are not, is misplaced. None of the aforementioned decisions are precedential and binding on the Board. Rather, the Board's subsequent decision on this issue in *Mewherter* is precedential and binding on the Board. *See Ex Parte Mewherter*, 107 USPQ2d 1857 (PTAB 2013)(precedential).

In *Mewherter*, the Board found a growing body of evidence demonstrated that "the ordinary and customary meaning of 'computer readable storage medium' to a person of ordinary skill in the art was broad enough to encompass both non-transitory and transitory media." *Mewherter* 107 USPQ2d at 1860. Consequently, the Board found claims directed to a machine-readable storage medium, deemed equivalent to claims directed to a computer readable storage medium, were directed to signals *per se* and must be rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. *Id.* at 1859, n.2.

As to Appellants' argument that a transitory signal is not a storage medium because storage implies some type of temporal permanence, that argument was addressed and rejected by the Board in *Mewherter*. As the Board found, a transitory signal comports with the definition of a storage medium because "data can be copied and held by a transitory recording medium, albeit temporarily, for future recovery of the embedded data." *Mewherter* 107 USPQ2d at 1862.

Consequently, for the reasons discussed *supra*, we sustain the Examiner's rejection of claims 13–17 as unpatentable under 35 U.S.C. § 101.

DECISION

The Examiner's rejection of claims 13–17 as unpatentable under 35 U.S.C. § 101 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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